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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,175	12/26/2001	William J. Drasler		6071

7590 10/20/2005

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EXAMINER

THALER, MICHAEL H

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/036,175	Applicant(s) DRASLER ET AL.	
	Examiner Michael Thaler	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 65-87 and 89-91 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 65-87 and 89-91 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Dec. 13, 2004 has been entered.

Any future response should include a listing of all claims including cancelled claims 1-64.

The disclosure is objected to because of the following informalities: Claim 65 ends in a comma. Appropriate correction is required.

Claims 65-87 and 89-91 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 65, it is unclear if the structural strands recited in line 9 are the same as the structural strands recited in line 4. If so, this is a double recitation of the same element. Claims 66 and 67 are indefinite for the same reason. Claim 87 is confusing and inaccurate since the structural strands which extend

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substantially in the circumferential direction do not also have axial componency.

Claims 66 and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenhalgh (6,192,944) in view of Schmitt (5,383,925). Greenhalgh, in figure 4C, discloses first strands 36 interwoven with first strands 40 and second strands 42 wherein any one of said first strands 40 is replaced by one of said second strands 42. The structural and the flexible strands have substantially continuous contact with neighboring strands such that the composite wall structure will not significantly leak blood serum (col. 3, lines 44-53, col. 5, line 42, noting the phrase "sealing ability" and col. 7, lines 61-66). The second strands inherently provide for anti-kinking characteristics for the vascular tubular member, are exposed an equal portion to both the inside and outside of the tubular member and make up an equal portion of the inner and outer surfaces of the tubular member as claimed. Greenhalgh fails to disclose the first strands 36 having an axial componency and the first strands 40 and the second strands 42 having significant circumferential componency (claim 66) or having a generally circumferential direction (claim 67). However, Schmitt teaches that the strands of a vascular graft should be angled with respect to the longitudinal axis of the graft (col. 11, line 59

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to col. 12, line 3) apparently in order to obtain the advantage of high strength for the graft. It would have been obvious to so angle the Greenhalgh strands so that it too would have this advantage. With this modification, all strands would have both axial componency and circumferential componency.

Claims 65, 68-87 and 89-91 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Applicant's arguments filed Oct. 26, 2004 have been fully considered but regarding claims 66 and 67, they are not persuasive. As to claim 66, a slight amount of circumferential componency for the second strands of Greenhalgh would be "significant", as broadly claimed, and would not destroy the functioning of the Greenhalgh device. As to claim 67, a slight amount of circumferential componency for the second strands of Greenhalgh would result in the strands having a "generally circumferential direction", as broadly claimed, since the strands would have both a generally circumferential direction (i.e. component) and a generally axial direction (i.e. component).

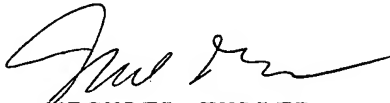
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael

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Thaler whose telephone number is (571)272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

mht
9/27/05



MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731